

May 7, 2003

MEMORANDUM TO: William D. Travers
Executive Director for Operations

Karen D. Cyr
General Counsel

FROM: Annette L. Vietti-Cook, Secretary **/RA by Andrew L. Bates
Acting For/**

SUBJECT: STAFF REQUIREMENTS - SECY-02-0199 - DENIAL OF
PETITION FOR RULEMAKING TO USE INFORMATION FROM
PRIOR LICENSING ACTIONS AS RESOLVED INFORMATION
FOR EARLY SITE PERMIT AND COMBINED LICENSE
APPLICATIONS (PRM-52-1)

The Commission has approved the staff's proposal to deny the petition for rulemaking to use information from prior licensing actions as resolved information during the preparation and review of early site permit (ESP) and combined license (COL) application. However, the *Federal Register* notice (FRN) requires substantial revision as noted in the comments provided below and in the attachment. The FRN should be redrafted and resubmitted to the Commission after consideration of these comments and attached edits.

(EDO)

(SECY Suspense:

6/27/03)

The FRN should be revised to reduce or eliminate repetitive discussions and to expound on the practical efficiencies that may occur through incorporation of previously-filed information or reference in some instances to prior adjudicatory determinations.

Having rejected the NEI proposal on policy grounds, there is no need for discussions of NRC authority. However, the staff should not, in rejecting the NEI proposal, imply that it will ignore all that has gone on before at that site or with an applicant who is now filing an Early Site Permit application. The FRN should explain the difference between licensing plants in a mature industry environment, rather than an emerging industry as was the case for the majority of the existing plant licenses, and that relying on already proven programs, to the extent that they are applicable, minimizes the risks of imposing modifications that are based on unproven assumptions.

The Office of the General Counsel should assist the staff in drafting language that properly describes what precedential value prior decisions may have on future applications.

SECY NOTE: THIS SRM AND SECY PAPER WILL BE RELEASED TO THE PUBLIC 5
WORKING DAYS AFTER THE LETTER HAS BEEN SENT TO THE
PETITIONER.

In rewriting the FRN, the staff should make it clear that there must be discipline in the review process for new plant licensing applications.

To ensure that future license applicants and the public understand the staff's review process of programs and siting information, in a separate document (e.g., Review Standard or Standard Review Plan), the staff should explain its review process, including specific criteria that the staff will use to make its determination as to whether new siting information or a program modification is necessary. The Commission is aware that the staff expects to issue a final review standard for early site permit application reviews, RS-002, Processing Applications for Early Site Permits, by the end of 2003. The staff should submit this document to the Commission for approval.

(EDO)

(SECY Suspense:

12/31/03)

Attachment: Changes to the Federal Register Notice in SECY-02-0199

cc: Chairman Diaz
Commissioner Dicus
Commissioner McGaffigan
Commissioner Merrifield
CFO
OCA
OIG
OPA
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR

Changes to the Federal Register Notice in SECY-02-0199

1. On page 8, last paragraph, revise line 9 to read ‘ ... proposed new §52.5, **being considered separately from this petition**, would make the’
2. On page 9, paragraph 1, line 14, delete “therefore”.
3. On page 10, revise lines 1 and 2 from the top to read ‘ ... considered two **representative areas that could arise in reviewing an ESP application** ~~which constitute a representative sampling of siting and environmental matters which must be addressed in an ESP, to determine’~~ Delete the sentence in lines 5 through 9 (In both areas, the ... never built.) Revise line 9 to read ‘~~However, in both of these areas,~~ **which would not be expected to have significant changes from earlier reviews**, the NRC’
4. On page 11, revise line 4 from the top to read ‘ ... demonstrate ~~and the NRC must find that the’~~
5. On page 11, last paragraph, delete line 1. Revise line 2 to read ‘~~supplemented, t~~The NRC would’
6. On page 12, paragraph 1, line 1, delete “technical”.
7. On page 12, paragraph 2, revise line 1 to read ‘ ... meteorology, **the existing licensee will have** ~~the applicant has collected data’~~ Revise line 3 to read ‘ ... this data **will have** ~~has been supplemented’~~ Revise line 7 to read ‘ ... representative of **current** meteorological conditions **at** ~~of the proposed’~~
8. On page 13, delete the last paragraph (This is not to say ... these two).
9. On page 14, delete lines 1 through 7 from the top (rulemakings represent ... resolution.)
10. On page 14, last paragraph, last line, delete the last three words (Moreover, the petitioner’s).
11. On page 15, delete all.
12. On page 16, delete lines 1 through 5 from the top (for maintaining ... findings.)
13. On page 16, last paragraph, revise line 2 to read ‘ ... being sought, ~~under the existing regulatory regime has’~~ Delete the sentence in lines 5 through 7 (The ESP applicant’s ... license.)
14. On page 17, delete the sentences in lines 5 through 10 from the top of the page (The NRC has the ... concepts.)

15. On page 17, last paragraph, revise line 3 to read ‘ ... regulatory burden ~~two of the NRC’s performance goals.~~’ Delete the last line and revise the next to last line to read ‘ ... new information **and to** , ~~as well as~~ include information on **compliance with** how the new regulations. ~~would be~~’
16. On page 18, line 1 from the top, delete the 1st 4 words (with the new regulations.)
17. On page 18, last paragraph, revise line 2 to read ‘ ... must demonstrate ~~and the NRC must find that the data~~’ Revise the last 2 lines to read ‘ ... licensing action. ~~Regardless of whether the applicant determined that the information needed to be supplemented, †~~ **The NRC would**’
18. On page 19, delete the last paragraph (As discussed earlier ... adopted.³) and footnote 3.
19. On page 20, paragraph 2, revise line 6 to read ‘ ... new information **nor** ~~and~~ new’
20. On page 30, delete the sentences in lines 4 through 11 from the top (This is not to say ... proposal.)
21. On page 30, delete the last paragraph (The COL applicant’s ... true with).
22. On page 31, delete lines 1 and 2 from the top (respect to an ... *site*.)